

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address

DANIEL H. REISS (SBN 150573)
dhr@lnbyb.com
LEVENE, NEALE, BENDER, YOO & BRILL L.L.P.
10250 Constellation Boulevard, Suite 1700
Los Angeles, CA 90067
Telephone: (310) 229-1234
Facsimile: (310) 229-1244

☐ Individual appearing without attorney
☒ Attorney for: Timothy J. Yoo, Chapter 7 Trustee

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION**

In re:

SCC TRANSPORT, INC.,

CASE NO.: 2:18-bk-21891-BB

CHAPTER: 7

NOTICE OF SALE OF ESTATE PROPERTY

Debtor(s).

Sale Date: See attached Notice.

Time:

Location:

Last date to file objections: 02/18/2020

See attached Notice.

See attached Notice.

Proposed sale price: See attached Notice.

Overbid procedure (*if any*):

See attached Notice.

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:

N/A

Contact person for potential bidders (*include name, address, telephone, fax and/or email address*):

DANIEL H. REISS, ESQ.
LEVENE, NEALE, BENDER, YOO & BRILL L.L.P.
10250 Constellation Boulevard, Suite 1700
Los Angeles, CA 90067
Telephone: (310) 229-1234
Facsimile: (310) 229-1244
Email: dhr@lnbyb.com

Date: 02/04/2020

DANIEL H. REISS (SBN 150573)
dhr@lnbyb.com

LEVENE, NEALE, BENDER, YOO & BRILL L.L.P.
10250 Constellation Boulevard, Suite 1700
Los Angeles, CA 90067
Telephone: (310) 229-1234
Facsimile: (310) 229-1244

Attorneys for Timothy J. Yoo
Chapter 7 Trustee

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION**

In re	)	Case No. 2:18-bk-21891-BB
)	
SCC TRANSPORT, INC.,	)	Chapter 7
)	
Debtor.	)	NOTICE OF MOTION BY CHAPTER 7
	)	TRUSTEE, TIMOTHY J. YOO, FOR
	)	PROPOSED SALE OF ESTATES'
	)	INTEREST IN CERTAIN CAUSES OF
	)	ACTION UNDER § 363(b) OR, IN THE
	)	ALTERNATIVE, TO ABANDON
	)	ESTATE'S INTEREST IN CERTAIN
	)	CAUSES OF ACTION UNDER § 554(A)
	)	AND BANKRUPTCY LOCAL RULE
	)	6007-1
)	
	)	[No Hearing Requested]

**TO THE HONORABLE SHERI BLUEBOND, UNITED STATES
BANKRUPTCY JUDGE, THE OFFICE OF THE UNITED STATES TRUSTEE, AND
PARTIES IN INTEREST:**

PLEASE TAKE NOTICE that Timothy J. Yoo, the chapter 7 trustee (the "Trustee") of the bankruptcy estate of SCC Transport, Inc. (the "Debtor"), has moved this Court (the "Motion") for an order authorizing the sale of the Causes of Action (as defined below), to the best and highest bidder, to be determined in the sole discretion of the Trustee, pursuant to 11 U.S.C. § 363(a). As set forth more fully in the Motion, the Trustee has analyzed certain potential Causes of Action. In his business judgment, the Trustee does not believe that pursuit of the Causes of Action is a productive use of the estate's limited resources and are likely of *de*

1 *minimus* value, if any, to this estate. Further, although the Trustee has, through counsel,
2 consulted with pre-petition litigation counsel for claimants against the Debtor with respect to
3 pursuing the Causes of Action on behalf of the estate, the Trustee has not identified
4 contingency fee counsel to undertake pursuit of the potential Causes of Action. However, in an
5 abundance of caution, the Trustee is providing an opportunity to purchase the Causes of Action,
6 if any.

7 PLEASE TAKE NOTICE that any offer to purchase the Causes of Action must be
8 received in writing by counsel for the Trustee, whose name, address and contact information is
9 provided in the upper right-hand corner of the first date of this Notice, no later than twenty-one
10 (21) days from the date of the mailing of this Notice (the "Offer Date"). If there are multiple
11 offers, the Trustee may either choose the highest and best offer received, or may conduct such
12 other process to obtain a higher offer from parties timely submitting offers in the exercise of his
13 business judgment. The Trustee reserves the right to seek such further orders from this Court
14 as he deems appropriate in order to facilitate a sale of the Causes of Action. The Causes of
15 Action shall be sold "as-is", without any representations or warranties.

16 Mr. Pablo Montalvan is the owner and president of the Debtor. As of the date of filing
17 this case on October 10, 2018 (the "Petition Date"), multiple truck drivers had obtained labor-
18 related judgments against the Debtor exceeding \$900,000 in the aggregate. In addition,
19 multiple lawsuits were pending against the Debtor as of the Petition Date also relating to
20 purported wage/hour/employment violations. These claims are in an unknown amount, but
21 may be in the millions of dollars.

22 Prior to the filing of this bankruptcy case, it appears that the Debtor operated a business
23 in the trucking industry, which appears to have primarily related to dispatching truck drivers to
24 pick up and deliver freight. The Trustee is informed that the Debtor did not own significant
25 valuable or tangible assets involved in the conduct of transporting and delivering freight.

26 The Trustee is informed that companies affiliated with the Debtor and/or Mr.
27 Montalvan may have been involved in different aspects of the trucking industry that related to,
28 among other things, financing of vehicles for purchase by drivers and motor carrier services.

1 The Trustee observes that the Debtor purports to have shut down its business, but that other or
2 subsequent business operations are being carried on by entities owned and/or controlled by Mr.
3 Montalvan which may be carrying on the same or similar business of the Debtor (collectively,
4 the “Montalvan Entities”). There may be causes of action that exist with respect to these
5 Montalvan Entities as successors or transferees of the Debtor; however, there does not appear
6 to have been valuable tangible or intangible assets transferred from the Debtor to the
7 Montalvan Entities that are recoverable to the bankruptcy estate. These and all other causes of
8 action against the Montalvan Entities, including but not limited to avoidance actions under 11
9 U.S.C. §§ 544 - 550, to the extent such exist, shall be referred to herein as the “Causes of
10 Action”.

11 If one or more offers to purchase the Causes of Action are received by the Offer Date,
12 the Trustee will sell the Causes of Action at a price to be determined by the Trustee, in his sole
13 discretion, to be the highest and best offer. In the alternative, if no bids are received by the
14 Offer Date that are acceptable by the Trustee in his business judgment, the Trustee, pursuant to
15 11 U.S.C. § 554(a) of the Bankruptcy Code and Local Bankruptcy Rule 6004-1, the estate’s
16 interest in any and all of the Causes of Action shall be deemed abandoned without further order
17 of the Court upon the filing by the Trustee of a notice of no timely offer having been received
18 with this Court.

19 In an abundance of caution, the Trustee is providing notice to all creditors and parties in
20 interest, and an opportunity to purchase the claims in question. If no one comes forward to
21 purchase the Causes of Action, the Trustee will abandon the Causes of Action as being of *de*
22 *minimis* or no value to the estate. The Trustee in his business judgment, believes that
23 abandonment of the Causes of Action would preserve and support the rights of judgment
24 creditors and those creditors whose claims (class-action plaintiffs or otherwise) are currently
25 pending if, for example, they believe there are Montalvan Entities to pursue who are not
26 currently the subject of this bankruptcy case.

27 PLEASE TAKE NOTICE that if no offer to purchase the Causes of Action is timely
28 received, the Trustee will abandon the Cause of Action as being of *de minimis* value to the

1 estate. This Notice shall serve as the notice of abandonment required by Local Bankruptcy
2 Rule 6007-1.

3 The complete relief requested and the bases for the Motion are set forth in the
4 concurrently filed Motion and accompanying Memorandum of Points and Authorities (the
5 “Memorandum”) and Declaration of Timothy J. Yoo.

6 The Motion is based upon 11 U.S.C. §§ 105(a), 363 and 554, Federal Rules of
7 Bankruptcy Procedure 2002 and 6004, Local Bankruptcy Rules 6004-1 and 6007-1, the
8 Memorandum, the evidence submitted, the entire record of this bankruptcy case, the statements,
9 arguments and representations of counsel to be made at any hearing on the Motion, and any
10 other evidence properly presented to the Court at, or prior to, the hearing on the Motion.

11 PLEASE TAKE FURTHER NOTICE that, pursuant to Local Bankruptcy Rule
12 9013-1(o), the Trustee shall request the Court to enter an order granting the Motion without a
13 hearing unless a party files an objection and request for hearing with the Court and serves such
14 objection and request for hearing upon counsel for the Trustee, whose name and address
15 appears in the upper left-hand corner of the first page of this Notice, and any other party
16 affected by the Motion within fourteen (14) days following the date of service of this Notice.

17 PLEASE TAKE FURTHER NOTICE that a copy of the Motion can be obtained from
18 the above-captioned United States Bankruptcy Court or by written request to the counsel for the
19 Trustee.

20 PLEASE TAKE FURTHER NOTICE that pursuant to Local Bankruptcy Rule 9013-
21 1(h), failure to file a written response may be deemed by the Court to be consent to the relief
22 requested in the Motion.

23 Dated: February 4, 2020 LEVENE, NEALE, BENDER, YOO
24 & BRILL L.L.P.

25
26 /s/ Daniel H. Reiss

27 DANIEL H. REISS

28 Attorneys for Timothy J. Yoo, Chapter 7 Trustee

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is 10250 Constellation Boulevard, Suite 1700, Los Angeles, CA 90067

A true and correct copy of the **Notice of Sale of Estate Property** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **February 4, 2020**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Vanessa M Haberbush on behalf of Interested Party
Courtesy NEF
vhaberbush@lbinsolvency.com,
dhaberbush@lbinsolvency.com,ahaberbush@lbinsolvency.com,abostic@lbinsolvency.com,haberbush.assistant@gmail.com,jborin@lbinsolvency.com,lbogard@lbinsolvency.com

David S Hagen on behalf of Creditor Britt Matthew Andersen
go4broq@earthlink.net

W. Derek May on behalf of Debtor SCC Transport, Inc.
wdmlaw17@gmail.com, r48266@notify.bestcase.com

Daniel H Reiss on behalf of Interested Party Courtesy NEF
dhr@lnbyb.com, dhr@ecf.inforuptcy.com

Daniel H Reiss on behalf of Trustee Timothy Yoo (TR)
dhr@lnbyb.com, dhr@ecf.inforuptcy.com

United States Trustee (LA)
ustpregion16.la.ecf@usdoj.gov

Sam Vahedi on behalf of Interested Party Courtesy NEF
sv@svalawyers.com

Timothy Yoo (TR)
tjytrustee@lnbyb.com, tjy@trustesolutions.net

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL: On **February 4, 2020**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Courtesy Copy

Hon. Sheri Bluebond

United States Bankruptcy Court

255 E. Temple St, Ste. 1534

Los Angeles, CA 90012

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, **February 4, 2020**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

February 4, 2020

John Berwick

/s/ John Berwick

Date

Type Name

Signature